

106TH CONGRESS
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H. R. 2580

To encourage the creation, development, and enhancement of State response programs for contaminated sites, removing existing Federal barriers to the cleanup of brownfield sites, and cleaning up and returning contaminated sites to economically productive or other beneficial uses.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1999

Mr. GREENWOOD (for himself, Mr. HALL of Texas, Mr. GANSKE, Mr. HASTINGS of Florida, Mr. MORAN of Virginia, Mr. ROEMER, Mr. MARTINEZ, Mr. TRAFICANT, Mr. CLAY, Mr. SHOWS, Mr. PETERSON of Minnesota, Mr. EHRLICH, Mr. GILLMOR, Mr. PICKERING, Mr. UPTON, Mr. SHIMKUS, and Mr. BURR of North Carolina) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To encourage the creation, development, and enhancement of State response programs for contaminated sites, removing existing Federal barriers to the cleanup of brownfield sites, and cleaning up and returning contaminated sites to economically productive or other beneficial uses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Land Recycling Act
3 of 1999”.

4 **SEC. 2. FINDINGS.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Brownfields are parcels of land that contain
7 or contained abandoned or under used commercial
8 or industrial facilities, the expansion or redevelopment
9 of which is complicated by the actual or potential
10 presence of hazardous substances, pollutants, or
11 contaminants.

12 (2) Brownfields, which may number in the hun-
13 dreds of thousands nationwide, threaten the environ-
14 ment, devalue surrounding property, erode State and
15 local tax bases, and prevent job growth.

16 (3) The primary environmental reason that cur-
17 rent owners and prospective developers do not rede-
18 velop brownfields is their fear about the potential li-
19 ability under environmental laws associated with the
20 cleanup and redevelopment of these sites.

21 (4) Current Federal law poses a barrier to the
22 cleanup and redevelopment of brownfields, leading
23 instead to the development of so-called greenfields,
24 contributing to urban sprawl, creating infrastructure
25 problems, and reducing recreational and agricultural
26 opportunities.

1 (5) Cleanup and redevelopment of brownfields
2 will reduce environmental contamination, encourage
3 job growth, enhance State and local tax bases, and
4 curb the development of greenfields.

5 (6) Many States have enacted cleanup pro-
6 grams to address the brownfields problem by allow-
7 ing for the consideration of future land use in decid-
8 ing appropriate cleanup standards and providing
9 clear releases of liability upon completion of clean-
10 ups.

11 (7) State response programs have been very ef-
12 fective in promoting the cleanup and redevelopment
13 of brownfields while ensuring the adequate protec-
14 tion of human health and the environment.

15 (b) PURPOSES AND OBJECTIVES.—The purposes and
16 objectives of this section are—

17 (1) to increase significantly the pace of re-
18 sponse activities at contaminated sites by promoting
19 and encouraging the creation, development, and en-
20 hancement of State response programs; and

21 (2) to remove existing Federal barriers to the
22 cleanup of brownfield sites; and

23 (3) to benefit the public health, welfare, and the
24 environment by cleaning up and returning contami-

1 nated sites to economically productive or other bene-
2 ficial uses.

3 **SEC. 3. CLEANUPS PURSUANT TO STATE RESPONSE PRO-**
4 **GRAMS.**

5 (a) PROHIBITION ON ENFORCEMENT.—Except as
6 otherwise provided in this section, neither the President
7 nor any other person (other than a State) may use any
8 authority of the Comprehensive Environmental Response,
9 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
10 et seq.) or section 7002(a)(1)(B) or section 7003 of the
11 Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to com-
12 mence an administrative or judicial action under either of
13 those Acts with respect to any release or threatened re-
14 lease at a facility that is, or has been, the subject of a
15 response action pursuant to a State program that meets
16 the requirements of subsection (b).

17 (b) STATE REQUIREMENTS.—The prohibition in sub-
18 section (a) applies with respect to a facility that is, or has
19 been, the subject of a response action pursuant to a State
20 program for undertaking response actions at facilities
21 where there is a release or threatened release of hazardous
22 substances if such program has been submitted to the Ad-
23 ministrator of the Environmental Protection Agency to-
24 gether with a certification by the State that—

1 (1) the State has enacted such program into
2 law,

3 (2) the State has committed the financial and
4 personnel resources necessary to carry out such pro-
5 gram, and

6 (3) such program will be implemented in a
7 manner protective of human health and the environ-
8 ment.

9 (c) LIMITATION ON PROHIBITION.—The prohibition
10 under subsection (a) and the exemption under subsection
11 (f) shall not apply with respect to any of the following:

12 (1) Any facility listed on the National Priorities
13 List, unless the Administrator, on a facility-by-facil-
14 ity basis and pursuant to an agreement with the
15 State concerned, makes a finding that a facility list-
16 ed on the National Priorities List is eligible to par-
17 ticipate in a State cleanup program meeting the re-
18 quirements of subsection (b).

19 (2) Any facility for which the Governor of a
20 State has requested Environmental Protection Agen-
21 cy assistance to perform a response action.

22 (3) Any facility owned or operated by a depart-
23 ment, agency, or instrumentality of the United
24 States.

1 (4) A release or threatened release to the extent
2 that a response action has been required pursuant to
3 an administrative order or judicial order or decree
4 entered into by the United States under any of the
5 following laws before the commencement of a re-
6 sponse action pursuant to a State program described
7 in subsection (a):

8 (A) The Comprehensive Environmental Re-
9 sponse, Compensation, and Liability Act of
10 1980 (42 U.S.C. 9601 and following).

11 (B) The Solid Waste Disposal Act (42
12 U.S.C. 6901 and following).

13 (C) The Federal Water Pollution Control
14 Act (33 U.S.C. 1251 and following).

15 (D) The Toxic Substances Control Act (15
16 U.S.C. 2601 and following).

17 (E) Title XIV of the Public Health Service
18 Act (commonly known as the Safe Drinking
19 Water Act) (42 U.S.C. 300f and following).

20 (5) A release or threatened release for which re-
21 sponse actions are immediately required to prevent
22 or mitigate a public health emergency and for which
23 the State is not responding in a timely manner.

1 (d) PRIOR ACTIONS.—Nothing in this section shall
2 affect administrative or judicial action commenced prior
3 to the date of enactment of this section.

4 (e) PERMITS AND OTHER REQUIREMENTS.—(1) 18
5 months after enactment of this Act, Federal permit or per-
6 mit revisions shall not be required for the on-site portion
7 of response actions that are subject to the prohibition
8 under subsection (a). Nothing in this paragraph dimin-
9 ishes the application of substantive standards required by
10 law.

11 (2) Within 12 months after enactment of this Act and
12 after public notice and comment and consultation with
13 State Governors, the Administrator shall promulgate regu-
14 lations which streamline any reporting requirements con-
15 nected with implementation of substantive requirements of
16 Federal law and consistent with paragraph (1).

17 (f) ASSISTANCE TO STATES.—The Administrator
18 shall provide technical, financial, and other assistance to
19 States to establish and enhance State response programs.
20 The Administrator shall encourage the States to develop
21 risk sharing pools, indemnity pools, or insurance mecha-
22 nisms to provide financing for response actions under their
23 response programs.

24 (g) EFFECT OF RESPONSE.—Performance of a re-
25 sponse action pursuant to a State program under this sec-

tion shall not constitute an admission of liability under any Federal, State, or local law or regulation or in any citizens suit or other private action.

SEC. 4. ADDITIONS TO NATIONAL PRIORITIES LIST.

(a) ADDITIONS TO NPL.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following) is amended by adding at the end the following new subsection:

“(h) ADDITIONS TO NPL.—The President may add a facility to the National Priorities List only after requesting and obtaining the concurrence of the Governor of the State in which the facility is located. If the Governor assures the President that the State is addressing, or will address, the site under State authority, and the Governor does not concur in the listing of the site, the President shall not list the site.”.

(b) CROSS REFERENCE.—Subparagraph (B) of section 105(a)(8) of such Act is amended by inserting after “shall revise the list” the following: “, subject to subsection (h),”.

SEC. 5. INNOCENT LANDOWNERS.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act

1 of 1980 (42 U.S.C. 9601 and following) is further amend-
2 ed by adding at the end the following new subsection:

3 “(q) INNOCENT LANDOWNERS.—

4 “(1) CONDUCT OF ENVIRONMENTAL ASSESS-
5 MENT.—A person who has acquired real property
6 shall have made all appropriate inquiry within the
7 meaning of subparagraph (B) of section 101(35) if
8 he establishes that, within 180 days prior to the
9 time of acquisition, an environmental site assess-
10 ment of the real property was conducted that meets
11 the requirements of this subsection.

12 “(2) DEFINITION OF ENVIRONMENTAL SITE AS-
13 SESSMENT.—For purposes of this subsection, the
14 term ‘environmental site assessment’ means an as-
15 sessment conducted in accordance with the stand-
16 ards set forth in the American Society for Testing
17 and Materials (ASTM) Standard E1527–94, titled
18 ‘Standard Practice for Environmental Site Assess-
19 ments: Phase I Environmental Site Assessment
20 Process’ or with alternative standards issued by rule
21 by the Administrator or promulgated or developed
22 by others and designated by rule by the Adminis-
23 trator. Before issuing or designating alternative
24 standards, the Administrator shall first conduct a
25 study of commercial and industrial practices con-

cerning environmental site assessments in the transfer of real property in the United States. Any such standards issued or designated by the Administrator shall also be deemed to constitute commercially reasonable and generally accepted standards and practices for purposes of this paragraph. In issuing or designating any such standards, the Administrator shall consider requirements governing each of the following:

“(A) Interviews of owners, operators, and occupants of the property to determine information regarding the potential for contamination.

“(B) Review of historical sources as necessary to determine previous uses and occupancies of the property since the property was first developed. For purposes of this subclause, the term ‘historical sources’ means any of the following, if they are reasonably ascertainable: recorded chain of title documents regarding the real property, including all deeds, easements, leases, restrictions, and covenants, aerial photographs, fire insurance maps, property tax files, USGS 7.5 minutes topographic maps, local street directories, building department records, zoning/land use records, and any other sources

1 that identify past uses and occupancies of the
2 property.

3 “(C) Determination of the existence of re-
4 corded environmental cleanup liens against the
5 real property which have arisen pursuant to
6 Federal, State, or local statutes.

7 “(D) Review of reasonably ascertainable
8 Federal, State, and local government records of
9 sites or facilities that are likely to cause or con-
10 tribute to contamination at the real property,
11 including, as appropriate, investigation reports
12 for such sites or facilities; records of activities
13 likely to cause or contribute to contamination at
14 the real property, including landfill and other
15 disposal location records, underground storage
16 tank records, hazardous waste handler and gen-
17 erator records and spill reporting records; and
18 such other reasonably ascertainable Federal,
19 State, and local government environmental
20 records which could reflect incidents or activi-
21 ties which are likely to cause or contribute to
22 contamination at the real property.

23 “(E) A visual site inspection of the real
24 property and all facilities and improvements on
25 the real property and a visual inspection of im-

1 mediately adjacent properties, including an in-
2 vestigation of any hazardous substance use,
3 storage, treatment, and disposal practices on
4 the property.

5 “(F) Any specialized knowledge or experi-
6 ence on the part of the defendant.

7 “(G) The relationship of the purchase
8 price to the value of the property if
9 uncontaminated.

10 “(H) Commonly known or reasonably as-
11 certainable information about the property.

12 “(I) The obviousness of the presence or
13 likely presence of contamination at the prop-
14 erty, and the ability to detect such contamina-
15 tion by appropriate investigation.

16 A record shall be considered to be ‘reasonably ascer-
17 tainable’ for purposes of this paragraph if a copy or
18 reasonable facsimile of the record is publicly avail-
19 able by request (within reasonable time and cost
20 constraints) and the record is practically reviewable.

21 “(3) MAINTENANCE OF INFORMATION.—No
22 presumption shall arise under paragraph (1) unless
23 the defendant has maintained a compilation of the
24 information reviewed and gathered in the course of
25 the environmental site assessment.”.

1 (b) CROSS REFERENCE.—Section 101(35)(B) (42
 2 U.S.C. 9601(35)(B)) is amended by inserting after “all
 3 appropriate inquiry” the following: “(as specified in sec-
 4 tion 107(o))”.

5 **SEC. 6. BONA FIDE PROSPECTIVE PURCHASER LIABILITY.**

6 (a) LIABILITY.—Section 107 the Comprehensive En-
 7 vironmental Response, Compensation, and Liability Act of
 8 1980 (42 U.S.C. 9601 and following) is further amended
 9 by adding at the end the following new subsections:

10 “(r) BONA FIDE PROSPECTIVE PURCHASER.—(1)
 11 Notwithstanding paragraphs (1) through (4) of subsection
 12 (a), a person who does not impede the performance of a
 13 response action or natural resource restoration at a facil-
 14 ity shall not be liable to the extent liability at such facility
 15 is based solely on paragraph (1) of subsection (a) for a
 16 release or threat of release from the facility, and the per-
 17 son is a bona fide prospective purchaser of the facility.

18 “(2) For purposes of this subsection, the term ‘bona
 19 fide prospective purchaser’ means a person who acquires
 20 ownership of a facility after the date of enactment of this
 21 subsection, or a tenant of such a person, who can establish
 22 each of the following by a preponderance of the evidence:

23 “(A) All active disposal of hazardous substances
 24 at the facility occurred before that person acquired
 25 the facility.

1 “(B) The person made all appropriate inquiry
2 into the previous ownership and uses of the facility
3 and its real property in accordance with generally
4 accepted commercial and customary standards and
5 practices. Standards described in subsection (q)(2)
6 (relating to innocent landowners) shall satisfy the
7 requirements of this subparagraph. In the case of
8 property for residential or other similar use, pur-
9 chased by a nongovernmental or noncommercial enti-
10 ty, a site inspection and title search that reveal no
11 basis for further investigation satisfy the require-
12 ments of this subparagraph.

13 “(C) The person provided all legally required
14 notices with respect to the discovery or release of
15 any hazardous substances at the facility.

16 “(D) The person exercised appropriate care
17 with respect to hazardous substances found at the
18 facility by taking reasonable steps to stop on-going
19 releases, prevent threatened future releases of haz-
20 ardous substances, and prevent or limit human or
21 natural resource exposure to hazardous substances
22 previously released into the environment.

23 “(E) The person provides full cooperation, as-
24 sistance, and facility access to persons authorized to
25 conduct response actions at the facility, including

1 the cooperation and access necessary for the installa-
2 tion, integrity, operation, and maintenance of any
3 complete or partial response action at the facility.

4 “(F) The person is not affiliated with any other
5 person liable for response costs at the facility,
6 through any direct or indirect familial relationship,
7 or any contractual, corporate, or financial relation-
8 ship other than that created by the instruments by
9 which title to the facility is conveyed or financed.

10 “(s) PROSPECTIVE PURCHASER AND WINDFALL
11 LIEN.—(1) In any case in which there are unrecovered
12 response costs at a facility for which an owner of the facil-
13 ity is not liable by reason of subsection (r), and the condi-
14 tions described in paragraph (2) are met, the United
15 States shall have a lien upon such facility for such unre-
16 covered costs. Such lien—

17 “(A) shall not exceed the increase in fair mar-
18 ket value of the property attributable to the response
19 action at the time of a subsequent sale or other dis-
20 position of property;

21 “(B) shall arise at the time costs are first in-
22 curred by the United States with respect to a re-
23 sponse action at the facility;

1 “(C) shall be subject to the requirements for
2 notice and validity established in paragraph (3) of
3 subsection (l); and

4 “(D) shall continue until the earlier of satisfac-
5 tion of the lien or recovery of all response costs in-
6 curred at the facility.

7 “(2) The conditions referred to in paragraph (1) are
8 the following:

9 “(A) A response action for which there are un-
10 recovered costs is carried out at the facility.

11 “(B) Such response action increases the fair
12 market value of the facility above the fair market
13 value of the facility that existed within 6 months be-
14 fore the response action was taken.”.

15 **SEC. 7. INNOCENT GOVERNMENTAL ENTITIES.**

16 Section 107 the Comprehensive Environmental Re-
17 sponse, Compensation, and Liability Act of 1980 (42
18 U.S.C. 9601 and following) is further amended by adding
19 at the end the following new subsection:

20 “(t) INNOCENT GOVERNMENTAL ENTITIES.—There
21 shall be no liability under subsection (a) for any State or
22 local government if such liability is based solely on—

23 “(A) the granting of a license or permit to con-
24 duct business; or

1 “(B) the State or local government’s status as
2 an owner or operator of the facility or vessel, and
3 the State or local government—

4 “(i) acquired the facility or vessel by es-
5 cheat or through any other involuntary transfer
6 or through the exercise of eminent domain, and

7 “(ii) establishes by a preponderance of the
8 evidence that it—

9 “(I) acquired the facility or vessel
10 after the disposal or placement of the haz-
11 ardous substances for which liability is al-
12 leged;

13 “(II) did not, by any act or omission,
14 cause or contribute to the release or
15 threatened release of such hazardous sub-
16 stances; and

17 “(III) exercised appropriate care with
18 respect to such hazardous substances tak-
19 ing into consideration the characteristics of
20 such hazardous substances, in light of all
21 relevant facts, circumstances, and generally
22 accepted good commercial and customary
23 standards and practices at the time of the
24 defendant’s acts or omissions.”.

1 **SEC. 8. CONTIGUOUS PROPERTIES.**

2 Section 107 the Comprehensive Environmental Re-
3 sponse, Compensation, and Liability Act of 1980 (42
4 U.S.C. 9601 and following) is further amended by adding
5 at the end the following new subsection:

6 “(u) CONTIGUOUS PROPERTIES.—(1) A person
7 (other than the United States or a department, agency,
8 or instrumentality of the United States) who owns or oper-
9 ates real property that is contiguous to or otherwise simi-
10 larly situated with respect to real property on which there
11 has been a release or threatened release of a hazardous
12 substance and that is or may be contaminated by such
13 release shall not be liable under subsection (a) (1) or (2)
14 by reason of such ownership or operation solely by reason
15 of such contamination if such person—

16 “(A) did not cause, contribute to, or consent to
17 the release or threatened release;

18 “(B) provides full cooperation, assistance, and
19 facility access to persons authorized to conduct re-
20 sponse actions at the facility, including the coopera-
21 tion and access necessary for the installation, integ-
22 rity, operation, and maintenance of any complete or
23 partial response action at the facility; and

24 “(C) is not affiliated with any other person lia-
25 ble for response costs at the facility, through any di-

1 rect or indirect familial relationship, or any contrac-
2 tual, corporate, or financial relationship.

3 “(2) The President may issue an assurance of no en-
4 forcement action under this Act to any such person and
5 may grant any such person protection against cost recov-
6 ery and contribution actions pursuant to section 113(f)(2).
7 Such person may also petition the President to exclude
8 from the description of a National Priorities List site such
9 contiguous real property, if such property is or may be
10 contaminated solely by ground water that flows under
11 such property and is not used as a source of drinking
12 water. The President may grant such a petition pursuant
13 to such procedures as he deems appropriate.”.

14 **SEC. 9. REMEDY SELECTION.**

15 Section 121 of the Comprehensive Environmental Re-
16 sponse, Compensation, and Liability Act of 1980 is
17 amended as follows:

18 (1) By inserting the following before the period
19 at the end of the first sentence in subsection (b)(1):
20 “to the extent practicable, considering the nature
21 and timing of reasonably anticipated uses of land,
22 water, and other resources”.

23 (2) By adding after the first sentence in sub-
24 section (b)(1): “The preferences for treatment or
25 permanent solutions in this paragraph shall not

1 apply to a treatment option or permanent solution
2 that would increase risk to the community or to
3 workers' health.”

4 (3) By striking “maximum” in the penultimate
5 sentence of subsection (b)(1).

6 (4) By striking “or is relevant and appropriate”
7 and “or relevant and appropriate” in subsection
8 (d)(2)(A).

9 (5) By striking “Level Goals” in subsection
10 (d)(2)(A) and inserting “Levels”.

11 (6) By striking “and water quality criteria es-
12 tablished under section 304 or 303 of the Clean
13 Water Act where such goals or criteria are relevant
14 and appropriate under the circumstances of the re-
15 lease of threatened release” in subsection (d)(2)(A)
16 and inserting “where such levels are relevant and
17 appropriate under the circumstances of the release
18 of threatened release, considering the timing of any
19 reasonably anticipated use of water as drinking
20 water and reasonable points of compliance”.

21 (7) In subsection (d)(2)(B) by striking clause
22 (i), striking “(ii)”, and redesignating subclauses (I)
23 through (III) as clauses (i) through (iii).

24 (8) By adding the following new subsection at
25 the end thereof:

1 “(g) RISK ASSESSMENT AND CHARACTERIZATION
 2 PRINCIPLES.—Risk assessments and characterizations
 3 conducted for remedial actions subject to this section
 4 shall—

5 “(1) provide scientifically objective assessments,
 6 estimates, and characterizations which neither mini-
 7 mize nor exaggerate the nature and magnitude of
 8 risks to human health and the environment;

9 “(2) be based on the best available scientific
 10 and technical information, including data on bio-
 11 availability and site-specific information; and

12 “(3) be based on an analysis of the weight of
 13 the scientific evidence that supports conclusions
 14 about a problem’s potential risk to human health
 15 and the environment.”.

16 **SEC. 10. BROWNFIELDS GRANTS.**

17 (a) IN GENERAL.—Title I of the Comprehensive En-
 18 vironmental Response, Compensation, and Liability Act of
 19 1980 (42 U.S.C. 9601 et seq.) is amended by adding at
 20 the end the following:

21 **“SEC. 127. BROWNFIELDS GRANTS.**

22 “(a) DEFINITIONS.—In this section, the following
 23 definitions apply:

24 “(1) ADMINISTRATIVE COST.—The term ‘ad-
 25 ministrative cost’ does not include the cost of—

1 “(A) site inventories;

2 “(B) investigation and identification of the
3 extent of contamination;

4 “(C) design and performance of a response
5 action; or

6 “(D) monitoring of natural resources.

7 “(2) BROWNFIELD FACILITY.—

8 “(A) IN GENERAL.—The term ‘brownfield
9 facility’ means real property with respect to
10 which expansion, development, or redevelopment
11 is complicated by the presence or potential pres-
12 ence of a hazardous substance.

13 “(B) EXCLUDED FACILITIES.—The term
14 ‘brownfield facility’ does not include—

15 “(i) any portion of real property that
16 is the subject of an ongoing removal or
17 planned removal under section 104;

18 “(ii) any portion of real property that
19 is listed or has been proposed for listing on
20 the National Priorities List;

21 “(iii) any portion of real property with
22 respect to which a cleanup is proceeding
23 under a permit, an administrative order, or
24 a judicial consent decree entered into by
25 the United States or an authorized State

1 under this Act, the Solid Waste Disposal
2 Act (42 U.S.C. 6901 et seq.), the Federal
3 Water Pollution Control Act (33 U.S.C.
4 1251 et seq.), the Toxic Substances Con-
5 trol Act (15 U.S.C. 2601 et seq.), or the
6 Safe Drinking Water Act (42 U.S.C. 300f
7 et seq.);

8 “(iv) a facility that is owned or oper-
9 ated by a department, agency, or instru-
10 mentality of the United States, except a
11 facility located on lands held in trust for
12 an Indian tribe; or

13 “(v) a portion of a facility for which
14 assistance for response activity has been
15 obtained under subtitle I of the Solid
16 Waste Disposal Act (42 U.S.C. 6991 et
17 seq.) from the Leaking Underground Stor-
18 age Tank Trust Fund established under
19 section 9508 of the Internal Revenue Code
20 of 1986.

21 “(3) ELIGIBLE ENTITY.—

22 “(A) IN GENERAL.—The term ‘eligible en-
23 tity’ means—

24 “(i) a State or a political subdivision
25 of a State, including—

1 “(I) a general purpose unit of
2 local government; and

3 “(II) a regional council or group
4 of general purpose units of local gov-
5 ernment;

6 “(ii) a redevelopment agency that is
7 chartered or otherwise sanctioned by a
8 State or other unit of government; and

9 “(iii) an Indian tribe.

10 “(B) EXCLUDED ENTITIES.—The term ‘el-
11 igible entity’ does not include any entity that is
12 not in full compliance with the requirements of
13 an administrative order, judicial consent decree,
14 or closure plan under a permit which has been
15 issued or entered into by the United States or
16 an authorized State under this Act, the Solid
17 Waste Disposal Act (42 U.S.C. 6901 et seq.),
18 the Federal Water Pollution Control Act (33
19 U.S.C. 1251 et seq.), the Toxic Substances
20 Control Act (15 U.S.C. 2601 et seq.), or the
21 Safe Drinking Water Act (42 U.S.C. 300f et
22 seq.) with respect to the real property or por-
23 tion thereof which is the subject of the order,
24 judicial consent decree, or closure plan.

1 “(b) BROWNFIELD ASSESSMENT GRANT PRO-
2 GRAM.—

3 “(1) ESTABLISHMENT OF PROGRAM.—The
4 President shall establish a program to provide
5 grants to eligible entities for inventory and assess-
6 ment of brownfield facilities.

7 “(2) ASSISTANCE FOR SITE ASSESSMENT.—On
8 approval of an application made by an eligible entity,
9 the President may make grants to the eligible entity
10 to be used for developing an inventory and con-
11 ducting an assessment of 1 or more brownfield fa-
12 cilities.

13 “(3) APPLICATIONS.—

14 “(A) IN GENERAL.—Any eligible entity
15 may submit an application to the President, in
16 such form as the President may require, for a
17 grant under this subsection for 1 or more
18 brownfield facilities.

19 “(B) APPLICATION REQUIREMENTS.—An
20 application for a grant under this subsection
21 shall include information relevant to the rank-
22 ing criteria established under paragraph (4) for
23 the facility or facilities for which the grant is
24 requested.

1 “(4) RANKING CRITERIA.—The President shall
2 establish a system for ranking grant applications
3 submitted under this subsection that includes the
4 following criteria:

5 “(A) The demonstrated need for Federal
6 assistance.

7 “(B) The extent to which a grant will
8 stimulate the availability of other funds for en-
9 vironmental remediation and subsequent rede-
10 velopment of the area in which the brownfield
11 facilities are located.

12 “(C) The estimated extent to which a
13 grant would facilitate the identification of or fa-
14 cilitate a reduction in health and environmental
15 risks.

16 “(D) The potential to stimulate economic
17 development of the area, such as the following:

18 “(i) The relative increase in the esti-
19 mated fair market value of the area as a
20 result of any necessary response action.

21 “(ii) The potential of a grant to cre-
22 ate new or expand existing business and
23 employment opportunities on completion of
24 any necessary response action.

1 “(iii) The estimated additional tax
2 revenues expected to be generated by eco-
3 nomic redevelopment in the area in which
4 a brownfield facility is located.

5 “(E) The financial involvement of the
6 State and local government in any response ac-
7 tion planned for a brownfield facility and the
8 extent to which the response action and the
9 proposed redevelopment is consistent with any
10 applicable State or local community economic
11 development plan.

12 “(F) The extent to which the site assess-
13 ment and subsequent development involves the
14 active participation and support of the local
15 community.

16 “(5) MAXIMUM GRANT AMOUNT PER FACIL-
17 ITY.—A grant made to an eligible entity under this
18 subsection shall not exceed \$200,000 with respect to
19 any brownfield facility covered by the grant.

20 “(c) BROWNFIELD REMEDIATION GRANT PRO-
21 GRAM.—

22 “(1) ESTABLISHMENT OF PROGRAM.—The
23 President shall establish a program to provide
24 grants to eligible entities to be used for capitaliza-

tion of revolving loan funds for remedial actions at brownfield facilities.

“(2) ASSISTANCE FOR SITE REMEDIATION.—

Upon approval of an application made by an eligible entity, the President may make grants to the eligible entity to be used for establishing a revolving loan fund. Any fund established using such grants shall be used to make loans to a State, a site owner, or a site developer for the purpose of carrying out remedial actions at 1 or more brownfield facilities.

“(3) APPLICATIONS.—

“(A) IN GENERAL.—Any eligible entity may submit an application to the President, in such form as the President may require, for a grant under this subsection.

“(B) APPLICATION REQUIREMENTS.—An application under this section shall include information relevant to the ranking criteria established under paragraph (4).

“(4) RANKING CRITERIA.—The President shall establish a system for ranking grant applications submitted under this subsection that includes the following criteria:

“(A) The adequacy of the financial controls and resources of the eligible entity to ad-

1 minister a revolving loan fund in accordance
2 with this title.

3 “(B) The ability of the eligible entity to
4 monitor the use of funds provided to loan re-
5 cipients under this title.

6 “(C) The ability of the eligible entity to en-
7 sure that a remedial action funded by the grant
8 will be conducted under the authority of a State
9 cleanup program that ensures that the remedial
10 action is protective of human health and the en-
11 vironment.

12 “(D) The ability of the eligible entity to
13 ensure that any cleanup funded under this Act
14 will comply with all laws that apply to the
15 cleanup.

16 “(E) The need of the eligible entity for fi-
17 nancial assistance to clean up brownfield sites
18 that are the subject of the application, taking
19 into consideration the financial resources avail-
20 able to the eligible entity.

21 “(F) The ability of the eligible entity to
22 ensure that the applicants repay the loans in a
23 timely manner.

24 “(G) The plans of the eligible entity for
25 using the grant to stimulate economic develop-

1 ment or creation of recreational areas on com-
2 pletion of the cleanup.

3 “(H) The plans of the eligible entity for
4 using the grant to stimulate the availability of
5 other funds for environmental remediation and
6 subsequent redevelopment of the area in which
7 the brownfield facilities are located.

8 “(I) The plans of the eligible entity for
9 using the grant to facilitate a reduction of
10 health and environmental risks.

11 “(J) The plans of the eligible entity for
12 using the grant for remediation and subsequent
13 development that involve the active participa-
14 tion and support of the local community.

15 “(5) MAXIMUM GRANT AMOUNT.—A grant
16 made to an eligible entity under this subsection may
17 not exceed \$1,000,000.

18 “(d) GENERAL PROVISIONS.—

19 “(1) PROHIBITION.—No part of a grant under
20 this section may be used for the payment of pen-
21 alties, fines, or administrative costs.

22 “(2) AUDITS.—The President shall audit an ap-
23 propriate number of grants made under subsections
24 (b) and (c) to ensure that funds are used for the
25 purposes described in this section.

1 “(3) AGREEMENTS.—

2 “(A) TERMS AND CONDITIONS.—Each
3 grant made under this section shall be subject
4 to an agreement that—

5 “(i) requires the eligible entity to
6 comply with all applicable Federal and
7 State laws;

8 “(ii) requires the eligible entity to use
9 the grant exclusively for the purposes spec-
10 ified in subsection (b)(2) or (c)(2);

11 “(iii) in the case of an application by
12 a State under subsection (c)(2), requires
13 payment by the State of a matching share,
14 of at least 50 percent of the amount of the
15 grant, from other sources of funding;

16 “(iv) requires that grants under this
17 section will not supplant State or local
18 funds normally provided for the purposes
19 specified in subsection (b)(2) or (c)(2); and

20 “(v) contains such other terms and
21 conditions as the President determines to
22 be necessary to ensure proper administra-
23 tion of the grants.

24 “(B) LIMITATION.—The President shall
25 not place terms or conditions on grants made

1 under this section other than the terms and
2 conditions specified in subparagraph (A).

3 “(4) LEVERAGING.—An eligible entity that re-
4 ceives a grant under this section may use the funds
5 for part of a project at a brownfield facility for
6 which funding is received from other sources, includ-
7 ing other Federal sources, but the grant shall be
8 used only for the purposes described in subsection
9 (b)(2) or (c)(2).

10 “(e) APPROVAL.—

11 “(1) INITIAL GRANT.—Before the expiration of
12 the fourth quarter of the first fiscal year following
13 the date of the enactment of this section, the Presi-
14 dent shall make grants under this section to eligible
15 entities and States that submit applications, before
16 the expiration of the second quarter of such year,
17 that the President determines have the highest
18 rankings under the ranking criteria established
19 under subsection (b)(4) or (c)(4).

20 “(2) SUBSEQUENT GRANTS.—Beginning with
21 the second fiscal year following the date of enact-
22 ment of this section, the President shall make an an-
23 nual evaluation of each application received during
24 the prior fiscal year and make grants under this sec-
25 tion to eligible entities and States that submit appli-

1 cations during the prior year that the President de-
2 termines have the highest rankings under the rank-
3 ing criteria established under subsection (b)(4) or
4 (c)(4).

5 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
6 is authorized to be appropriated to carry out this section
7 such sums as may be necessary. Such funds shall remain
8 available until expended.”.

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